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	PRS-00	ACE-00	P-00	SP-00	STR-00	TRSE-00	USIE-00
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FM AMEMBASSY HARARE
TO SECSTATE WASHDC PRIORITY 0896
INFO NSC WASHDC PRIORITY
SOUTHERN AFRICAN DEVELOPMENT COMMUNITY
AMEMBASSY OTTAWA
AMEMBASSY KINGSTON
AMEMBASSY NAIROBI

C O N F I D E N T I A L SECTION 01 OF 04 HARARE 000345

SIPDIS

NSC FOR SENIOR AFRICA DIRECTOR JENDAYI FRAZER
LONDON FOR CHARLES GURNEY
PARIS FOR CHARLES NEARY
NAIROBI FOR TERRY PFLAUMER

E.O. 12958: DECL: 02/07/12

TAGS: [PGOV PHUM ZI](#)

SUBJECT: ZIMBABWE ACCESS TO INFORMATION ACT PLACES
INDEPENDENT PRESS UNDER GOVERNMENT CONTROL

CLASSIFIED BY POLITICAL OFFICER TODD FAULK FOR REASONS:
1.5 (B) AND (D).

[1](#)1. (C) SUMMARY: ON JANUARY 31, THE PARLIAMENT OF ZIMBABWE PASSED THE DECEPTIVELY-NAMED ACCESS TO INFORMATION AND PROTECTION OF PRIVACY ACT AFTER THREE WEEKS OF DEBATE. THE ACT, WHICH HAS YET TO BE SIGNED BY THE PRESIDENT AND GAZETTED INTO LAW, ESSENTIALLY PLACES ZIMBABWE'S INDEPENDENT JOURNALISTS AND MEDIA COMPANIES UNDER GOVERNMENT CONTROL AND RESTRICTS THE OPERATION OF FOREIGN JOURNALISTS AND MEDIA IN ZIMBABWE. AFTER THE PARLIAMENTARY LEGAL COMMITTEE (PLC) ISSUED AN ADVERSE REPORT ON THE BILL, ABOUT HALF OF THE ORIGINAL BILL'S CLAUSES WERE AMENDED IN BEHIND-THE-SCENES WRANGLING BETWEEN JUSTICE MINISTER PATRICK CHINAMASA AND PLC CHAIRMAN EDDISON ZVOBGO. MEDIA WATCHER ORGANIZATIONS CALLED THE CHANGES "INSIGNIFICANT" AND SAID THE FINAL VERSION OF THE ACT IS STILL REPRESSIVE. PRESIDENT MUGABE MAY DELAY IMPLEMENTING THE ACT TO AVOID FURTHER RECRIMINATIONS FROM WESTERN COUNTRIES PLANNING TO SEND ELECTION OBSERVERS. END SUMMARY.

CONTENTIOUS DEBATE ON CONTROVERSIAL BILL

[1](#)2. (C) ON JANUARY 31, THE PARLIAMENT OF ZIMBABWE PASSED THE DISINGENUOUSLY-NAMED ACCESS TO INFORMATION AND PROTECTION OF PRIVACY ACT AFTER THREE WEEKS OF DEBATE
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AND UNEXPECTED DELAY. MOST OF THE CONTENTION IN PARLIAMENT OCCURRED NOT BETWEEN THE RULING ZANU-PF AND MDC, BUT BETWEEN MEMBERS OF ZANU-PF. THE TROUBLE BEGAN WHEN ZANU-PF MP AND CHAIRMAN OF THE PARLIAMENTARY LEGAL COMMITTEE (PLC) EDDISON ZVOBGO FOUND THE INFORMATION BILL UNCONSTITUTIONAL AND ISSUED AN ADVERSE REPORT ON IT IN EARLY JANUARY. ZANU-PF LIKELY INTENDED TO IGNORE THE REPORT, AS IT HAS DONE WITH OTHER UNFAVORABLE ONES, AND RUSH THE BILL THROUGH. HOWEVER, WHEN ZVOBGO REPEATEDLY REFUSED TO APPEAR IN PARLIAMENT TO PRESENT THE REPORT, A REQUIREMENT FOR THE BILL TO PROCEED, ZANU-PF FOUND ITSELF STUCK. JUSTICE MINISTER PATRICK CHINAMASA (AND LEADER OF THE HOUSE OF ASSEMBLY) APPROACHED ZVOBGO ON WHAT IT WOULD TAKE TO GET THE BILL THROUGH. THIS RESULTED IN NEARLY TWO WEEKS OF BEHIND-THE-SCENES NEGOTIATIONS BETWEEN CHINAMASA AND THE PLC. INFORMATION MINISTER JONATHAN MOYO, AUTHOR OF THE BILL AND MUCH DESPISED IN HIS OWN PARTY, WAS VISIBLY EMBARRASSED. ON THE NIGHT OF THE BILL'S PASSAGE, CHINAMASA REPORTEDLY REBUFFED MOYO ON THE HOUSE FLOOR, MUCH TO THE AMUSEMENT OF THE MDC MEMBERS. THE BILL FINALLY RECEIVED THE PLC'S ASSENT WITH 50 OUT OF 103 CLAUSES AMENDED OR DELETED; THE MDC DID NOT CONTEST ITS PASSAGE.

AMENDMENTS ARE MOSTLY MINOR

13. (C) MOST OF THE AMENDMENTS WRITTEN INTO THE ACT BY THE PLC ARE RELATIVELY MINOR OR COSMETIC. ONE OF THE MORE SIGNIFICANT IS A PROVISION FOR THE ASSOCIATION OF
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JOURNALISTS AND MEDIA HOUSES TO NOMINATE AT LEAST THREE MEMBERS TO THE MEDIA AND INFORMATION COMMISSION THAT WILL BE REGULATE JOURNALISTS AND MEDIA ORGANIZATIONS. PREVIOUSLY, THE INFORMATION MINISTER WOULD HAVE APPOINTED ALL FIVE TO SEVEN MEMBERS OF THE COMMISSION. SOME OF THE OTHER CHANGES:

-- FOREIGN INVESTORS WILL BE PERMITTED TO OWN MINORITY SHARES OF ZIMBABWEAN MEDIA ORGANIZATIONS RATHER THAN BEING BANNED ALTOGETHER. HOWEVER, THIS CLAUSE IS NOT RETROACTIVE, AND OWNERSHIP OF MEDIA ORGANIZATIONS AS OF JANUARY 31, 2002 WILL NOT BE REQUIRED TO CHANGE.

-- ALL JOURNALISTS WITH PRESS CREDENTIALS BEFORE THE ACT IS GAZETTED WILL BE DEEMED REGISTERED WITH THE COMMISSION UNTIL THE END OF 2002 INSTEAD OF BEING REQUIRED TO REGISTER WITHIN THREE MONTHS OF THE ACT'S GAZETTING.

-- DISPUTES OVER ALLEGED VIOLATIONS OF THE BILL WILL BE REFERRED TO THE COURTS RATHER THAN THE INFORMATION MINISTER.

-- FOREIGN JOURNALISTS MAY APPLY TO WORK IN ZIMBABWE FOR "A LIMITED PERIOD" RATHER THAN "A FEW DAYS."

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	L-00	VCE-00	AC-01	DCP-01	NSAE-00	OIC-02	OMB-01
	OPIC-01	PA-00	PM-00	PRS-00	ACE-00	P-00	SP-00
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INDEPENDENT PRESS UNDER GOVERNMENT CONTROL

ZIMBABWEAN JOURNALISTS MAY NOW REPORT FOR INTERNATIONAL MEDIA, IN ADDITION TO THEIR ZIMBABWEAN MEDIA EMPLOYER, PROVIDED THEY HAVE THE PERMISSION OF THE EMPLOYER.

-- MAXIMUM FINES FOR MEDIA ORGANIZATIONS IN VIOLATION OF THE ACT WERE REDUCED FROM \$Z 1 MILLION (US\$3,300) TO Z\$300,000 (US\$1,000).

ACT PLACES NUMEROUS GOVERNMENT CONTROLS ON MEDIA

14. (SBU) THE ACT, WHICH HAS YET TO BE SIGNED BY THE PRESIDENT AND GAZETTED INTO LAW, STILL PLACES ZIMBABWE'S JOURNALISTS AND MEDIA COMPANIES UNDER GOVERNMENT CONTROL AND RESTRICTS THE OPERATION OF FOREIGN JOURNALISTS AND MEDIA IN ZIMBABWE DESPITE THE AMENDMENTS. THE ACT IS DIVIDED INTO 13 PARTS, WHICH ARE SUBDIVIDED INTO A TOTAL

OF 94 SECTIONS. BELOW IS A SUMMARY OF THE SUBSTANTIAL PARTS:

-- PART 2: RESTRICTS RIGHT TO ACCESS ANY RECORD OR PERSONAL INFORMATION TO CITIZENS OR PERMANENT RESIDENTS OF ZIMBABWE AND MASS MEDIA ORGANIZATIONS REGISTERED UNDER THE ACT.

-- PART 3: INFORMATION NOT RELEASABLE TO ANY APPLICANT: THE DELIBERATIONS OF CABINET OR LOCAL GOVERNMENT BODIES, ADVICE GIVEN TO THE PRESIDENT, INFORMATION THAT MAY
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COMPROMISE A LAW ENFORCEMENT AGENCY OR NATIONAL SECURITY. A PUBLIC BODY MAY REFUSE TO RELEASE INFORMATION RELATED TO INTER-GOVERNMENTAL NEGOTIATIONS, PUBLIC BODY FINANCES, THE ECONOMIC INTERESTS OF THE STATE, OR THE BUSINESS INTERESTS OF A THIRD PARTY.

-- PART 5: A PUBLIC BODY MAY COLLECT PERSONAL INFORMATION IF IT IS IN THE INTEREST OF: NATIONAL SECURITY, LAW ENFORCEMENT, PUBLIC HEALTH, THE ACTIVITY OF THE PUBLIC BODY, OR THE FORMULATION OF PUBLIC POLICY.

MEDIA COMMISSION AND FUND

-- PART 7: ESTABLISHES A MEDIA AND INFORMATION COMMISSION THAT SHALL, AMONG OTHER THINGS, RECEIVE AND ACT UPON COMMENTS FROM THE PUBLIC ON THE PERFORMANCE OF MASS MEDIA IN ZIMBABWE, ACCREDIT JOURNALISTS, ENFORCE PROFESSIONAL AND ETHICAL STANDARDS OF THE MASS MEDIA, REGISTER MASS MEDIA ORGANIZATIONS, AND CONDUCT INVESTIGATIONS OF MASS MEDIA OUTLETS TO ENSURE COMPLIANCE WITH THE ACT. THE COMMISSION SHALL BE CONTROLLED BY A BOARD OF AT LEAST FIVE AND NOT MORE THAN SEVEN MEMBERS APPOINTED BY THE MINISTER OF INFORMATION. AT LEAST THREE OF THE MEMBERS WILL BE SELECTED FROM NOMINEES PROVIDED BY ASSOCIATIONS OF JOURNALISTS AND MASS MEDIA OUTLETS. (COMMENT: THE LANGUAGE OF THE ACT IS NOT CLEAR ON THE LATTER POINT AND LEAVES OPEN THE POSSIBILITY, IN A LEGAL CHALLENGE, THAT THE ASSOCIATION OF JOURNALISTS AND THE ASSOCIATION OF MASS MEDIA OUTLETS
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COULD EACH SUBMIT THREE NOMINATIONS FOR A TOTAL OF SIX. END COMMENT.)

-- PART 8: ESTABLISHES A MEDIA AND INFORMATION FUND THAT WILL "STANDARDIZE MASS MEDIA SERVICES" AND ASSIST IN THE TRAINING OF PERSONS IN MASS MEDIA. EVERY MASS MEDIA OWNER, EXCEPT BROADCASTING LICENSEES (I.E. THE GOVERNMENT-CONTROLLED ZIMBABWE BROADCASTING CORPORATION), SHALL PAY AN ANNUAL LEVY TO THE FUND. THOSE FAILING TO PAY WITHIN SEVEN DAYS OF THE DUE DATE PRESCRIBED BY THE MINISTER OF INFORMATION SHALL HAVE THE LEVY DOUBLED AND MAY GO TO A COURT TO RECOVER THE LEVY.

-- PARTS 9 AND 10: THE COMMISSION SHALL HAVE THE AUTHORITY TO CONDUCT INVESTIGATIONS, AUDITS OR INQUIRIES, ISSUE SUMMONS, AND REQUIRE THAT A PUBLIC BODY PRODUCE ANY RECORD, INCLUDING PERSONAL INFORMATION, IN THE COURSE OF ITS INVESTIGATIONS. THE COMMISSION MAY DECIDE ALL QUESTIONS OF FACT AND LAW ARISING FROM AN INQUIRY AND ISSUE ORDERS BASED ON ITS FINDINGS. ANY PERSON AGGRIEVED BY A COMMISSION DECISION MAY APPEAL TO AN ADMINISTRATIVE COURT.

CONTROL OF MASS MEDIA OUTLETS

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-- PART 11: ANY PERSON ACCREDITED TO A REGISTERED MEDIA OUTLET WHO "ABUSES THE FREEDOM OF EXPRESSION" BY CONTRAVENING THE ACT OR "KNOWINGLY PUBLISHING A FALSE RECORD OF PERSONAL INFORMATION" (I.E. SLANDER) SHALL BE SUBJECT TO A FINE OF Z\$100,000 (US\$330) OR TWO YEARS IMPRISONMENT. ONLY ZIMBABWEAN CITIZENS, PERMANENT RESIDENTS, OR CORPORATE BODIES CONTROLLED BY ZIMBABWEAN CITIZENS OR PERMANENT RESIDENTS MAY BE MASS MEDIA OWNERS. EXISTING MASS MEDIA OWNERS AS OF JANUARY 31, 2002 ARE EXEMPTED FROM THE OWNERSHIP PROVISIO. A MASS MEDIA OWNER MUST REGISTER WITH THE COMMISSION WITHIN THREE MONTHS OF THE ACT GOING INTO EFFECT (I.E. ITS PUBLICATION IN THE GOVERNMENT GAZETTE); THE REGISTRATION, IF APPROVED, WILL BE VALID FOR TWO YEARS. THE MASS MEDIA SERVICE MUST NOTIFY THE COMMISSION IF: ITS OWNERSHIP CHANGES, ITS NAME OR FREQUENCY OF DISSEMINATION CHANGES, THE AREA WHERE ITS PRODUCTS ARE CIRCULATED CHANGES, OR ITS EDITORIAL OFFICE CHANGES LOCATION. REGISTRATION CERTIFICATES MAY BE SUSPENDED OR CANCELLED FOR, AMONG OTHER THINGS, EMPLOYING UNACCREDITED JOURNALISTS. A PERSON OPERATING A MASS MEDIA SERVICE OR NEWS AGENCY WITHOUT VALID REGISTRATION IS LIABLE TO A FINE OF Z\$300,000 (US\$1,000) AND/OR TWO YEARS IMPRISONMENT.

CONTROL OF JOURNALISTS

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-- PART 12: NO JOURNALIST SHALL OPERATE WITHOUT BEING ACCREDITED BY THE COMMISSION. ONLY CITIZENS OR PERMANENT RESIDENTS MAY BE ACCREDITED (FOR ONE YEAR). NONCITIZENS OR NON-PERMANENT RESIDENTS MAY BE ACCREDITED FOR "A LIMITED PERIOD," (PRESUMABLY LESS THAN ONE YEAR). EVERY NEWS AGENCY THAT OPERATES IN ZIMBABWE SHALL EMPLOY ONLY ACCREDITED JOURNALISTS AS STIPULATED ABOVE FOR ITS ZIMBABWEAN OPERATIONS. THE FALSIFICATION OR FABRICATION OF INFORMATION OR THE PUBLISHING OF "FALSEHOODS" SHALL CONSTITUTE AN "ABUSE OF JOURNALISTIC PRIVILEGE" AND BE SUBJECT TO A FINE OF Z\$100,000 (US\$330) OR TWO YEARS IMPRISONMENT. THE COMMISSION SHALL, IN CONJUNCTION WITH ORGANIZATIONS IT DEEMS REPRESENTATIVE OF JOURNALISTS, DEVELOP A CODE OF CONDUCT GOVERNING JOURNALISTS AND SHALL ENFORCE THAT CODE OF CONDUCT. FOREIGN MASS MEDIA SERVICES MAY NOT ESTABLISH A REPRESENTATIVE OFFICE IN ZIMBABWE WITHOUT THE PERMISSION OF THE COMMISSION.

PART 13: THE MINISTER OF INFORMATION MAY ISSUE REGULATIONS GOVERNING, AMONG OTHER THINGS, THE APPLICATIONS FOR REGISTRATION, THE MANNER IN WHICH COMPLAINTS AGAINST MASS MEDIA SERVICES AND JOURNALISTS ARE DEALT WITH, THE AMOUNTS OF LEVIES PAID TO THE FUND AND THE MANNER IN WHICH MONEY RAISED MAY BE INVESTED, THE AMOUNT OF ACCREDITATION AND REGISTRATION FEES, AND THE QUALIFICATIONS FOR ACCREDITATION OF JOURNALISTS.

ACT WIDELY CONDEMNED

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15. (SBU) IN A FEBRUARY 1 PUBLIC STATEMENT, THE MEDIA INSTITUTE OF SOUTHERN AFRICA (MISA) CONDEMNED THE INFORMATION ACT AND OBJECTED TO THE "STRINGENT ACCREDITATION REGULATIONS" AND THE PUNITIVE MEASURES THAT WOULD BE METED OUT TO VIOLATORS. MISA STATED THAT THE PASSED BILL "RETAINS ITS LIMITATIONS ON INFORMATION THAT CAN BE ACCESSED BY JOURNALISTS AND ORDINARY MEMBERS OF THE PUBLIC," WHILE THERE IS "NO BINDING OBLIGATION" ON PUBLIC OFFICIALS TO RELEASE INFORMATION. THE GLOBAL

CAMPAIGN FOR FREE EXPRESSION SAID THE SYSTEM OF REGISTRATION FOR MASS MEDIA OUTLETS, AS OVERSEEN BY THE COMMISSION, IS "CLEARLY SUBJECT TO POLITICAL INTERFERENCE." RESTRICTIONS ON JOURNALISTS ARE "A CLEAR BREACH OF THE GUARANTEE OF FREEDOM OF EXPRESSION." ZIMBABWE LAWYERS FOR HUMAN RIGHTS (ZLHR) PUBLICLY STATED THAT "CONTRARY TO ITS TITLE, THE (ACT) ... SEEKS TO MUZZLE THE PRESS AND AT THE SAME TIME UNDERMINE THE RIGHT TO FREEDOM OF INFORMATION AND ACCESS CONTAINED IN ... THE CONSTITUTION. ... THE MEDIA AND INFORMATION COMMISSION ... HAS NO INDEPENDENT SECURITY OF TENURE AND DESPITE BEING PAID FOR BY PUBLIC FUNDS WILL RUN ERRANDS FOR THE MINISTER (OF INFORMATION)."

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COMMENT: NO HURRY TO IMPLEMENT THE ACT

[16.](#) (C) AN ARTICLE IN THE FEBRUARY 2 EDITION OF THE GOVERNMENT-CONTROLLED "THE HERALD" HINTED THAT THE ACT MAY NOT BE IMPLEMENTED BEFORE THE PRESIDENTIAL ELECTION BECAUSE OF CONCERNS OVER "LAST-MINUTE AMENDMENTS" MADE TO THE BILL. IN ACTUALITY, THE GOZ MAY NOT SEE THE BILL AS PRESSING, SINCE MANY OF THE MOST IMPORTANT PROVISIONS, SUCH AS THE REGISTRATION OF MEDIA HOUSES, WILL NOT BE EFFECTIVE FOR THREE MORE MONTHS. MUGABE MAY BE HOLDING OFF ON SIGNING THE ACT TO GIVE THE EU AND OTHER WESTERN COUNTRIES PAUSE IN THEIR CONSIDERATION FOR SANCTIONS. END COMMENT.

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